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C O N F I D E N T I A L SECTION 01 OF 02 HO CHI MINH CITY 000815

SIPDIS

E.O. 12958: DECL: 9/11/2033  
TAGS: PHUM PGOV PREL VM  
SUBJECT: BLOGGER DIEU CAY CONVICTED FOR TAX EVASION

REF: A) HANOI 458 B) HCMC 235 AND PREVIOUS

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CLASSIFIED BY: Ken Fairfax, Consul General, EXEC, State.  
REASON: 1.4 (b), (d)

¶1. (C) Blogger "Dieu Cay" (whose real name is Nguyen Van Dai) and his wife were tried today in HCMC on tax evasion charges in a HCMC district court. Cay was sentenced to 2.5 years in prison and fined \$48,000, or twice the amount prosecutors claimed he owed in back taxes. His wife received a one year suspended sentence and eighteen months' probation. The prosecution claimed Dieu Cay and his wife did not pay taxes on two rental properties, despite the fact the defense produced a written contract showing that the renters had agreed to pay the taxes. Cay was arrested in April after he and other members of the Freelance Journalist Club organized a protest over China's actions in the Spratley/Paracel Islands and threatened to disrupt the Olympic torch relay in HCMC on April 29. The decision to prosecute him on evidently spurious tax charges rather than the vague "national security" provisions used to prosecute other dissidents appears to be part of an increasing trend to attempt to avoid international pressure over political repression by cloaking it under the rubric of rule of law. End summary.

#### The Case Against Cay

¶2. (SBU) Cay's defense lawyer, prominent HCMC Bar member Le Cong Dinh, said the six-hour trial concluded with the Court finding Dieu Cay and his wife guilty of tax evasion on two rental properties they owned in HCMC. Cay received a 2.5 year prison sentence and his wife a one year suspended sentence with 18 months' probation. The couple was also ordered to pay a \$48,000 fine, or two times the \$24,000 the court claimed they owed in back taxes. The conviction came despite the evidence presented by the four-member defense team showing Cay and his wife had a written agreement that stated the renters would pay the property taxes. The renters denied they had signed the agreement when questioned at the trial. The prosecution argued that the agreement was a "sophisticated fabrication," but Dinh believes the renters were pressured by authorities to deny the existence of the agreement before the trial. Dinh argued the tax evasion charges were unfounded and that Cay was being tried for "other activities," pointing to the presence of the Ministry of Public Security's political police (PA 35) at Cay's arrest and during the search of his house. Dinh also noted that Cay's political activities were the main topic of discussion during the many "working sessions" Cay had with police prior to his arrest.

#### Problems with Procedure

¶3 (SBU) Cay's four-person defense team pointed out many violations in legal procedure during the investigation period before the trial. Among the obvious irregularities is the fact

that although Dinh filed appropriate papers with the Court in June, he was only granted approval to represent Cay one week before the trial. Only one defense lawyer from his team was able to visit Cay a full two months after his arrest; they met on just two occasions before the trial. The defense team also pointed out that despite the fact this was supposedly a tax evasion trial, the prosecution never discussed the tax evasion charges with tax authorities except to ask them to determine how much Cay allegedly owed in back taxes. Friends and family members were also not allowed to visit Cay during his detention.

Members of the Freelance Journalist Club (FJC) were either summoned for working sessions with the police or stopped in advance by authorities when they attempted to attend the trial.

#### FJC Members Under Pressure

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¶4. (C) The FJC is a self-selected group of bloggers who met each other online two years ago when Dieu Cay (Nguyen Van Hai) posted a letter from a journalist calling on the Prime Minister to allow private media outlets in Vietnam. The ensuing on-line discussion between Cay and some like-minded bloggers led them to form the FJC, and the group started meeting regularly to discuss current events with a focus on items they felt were not fully covered in mainstream media, such as the Can Tho bridge collapse, labor strikes, Catholic land disputes in Hanoi and other issues. The group moved from discussion to action when they staged a demonstration on the steps of the HCMC Opera House earlier this year, protesting China's actions in the Spratley and Paracel islands (ref B). They were also planning a demonstration during the Olympic Torch relay in HCMC in April (ref A). As a result, Dieu Cay and his colleagues from the FJC came under scrutiny by authorities for their political activities.

¶5. (C) FJC member Uyen Vu told Poloff the police had threatened his employer with "extreme scrutiny" of the company's business activities if the company "continued to harbor" him. Vu's

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employer became nervous, and after a brief discussion, Vu said he had no choice but to "voluntarily" resign. Prize-winning movie director and FJC member Song Chi told Poloff that the authorities approached the HCMC Television Film Studios (TFS) after they chose her to direct a new film. The police showed TFS excerpts from Song Chi's blog articles and told them she had "complicated ideological and political problems" -- a death knell for television programming. On May 2, TFS terminated their oral agreement with Song Chi, which Chi said was "the most terrible thing they could do to a creative artist," as she has not been able to find work with other film studios since the TFS incident.

¶6. (C) Other members of the FJC report varying levels of police monitoring and harassment. FJC member Phan Thanh Hai said his wife was once threatened with a "deadly motorbike accident" by plainclothes police and his business has had problems finding and maintaining an office space. Hai eventually transferred the title of his business to family members and has distanced himself from the company in an effort to avoid further harassment. Hai, a lawyer by profession, has been unsuccessful in his bid to join the HCMC Bar Association, noting that while Bar members here have been supportive, "higher authorities" appear to be blocking his application.

¶7. (C) Hai said the FJC is now in a "suspended state of operations" when it comes to public meetings and discussions. Members still meet each other occasionally, but not as a group. They maintain a strong virtual presence via online chats and instant messages, and still post pertinent news about democracy activists, labor and land rights and corruption issues on their blog (<http://clbnbtd.com/index.php>).

¶8. (C) Comment: Cay's conviction for tax evasion and the harassment of other members of the Freelance Journalist Club are examples of how authorities in Vietnam are clamping down on activists through more subtle, yet equally effective, means.

The 2006-2007 dissident crackdown was characterized by sweeping arrests of activists detained for many months and eventually convicted using vague national security provisions of the Penal Code. International outrage directed at the GVN for such a blatantly political decision to muzzle peaceful freedom of expression appears to have led to a change in tactics, although not in outcomes. These days, constant police surveillance, frequent detentions for questioning and interference with activists' and their families' businesses and professions is discouraging individuals from meeting publicly to express their political views. While these tactics are not necessarily new, they appear to be increasing as the GVN attempts to cloak its actions under a veil of rule of law. Despite these pressures, activists continue to get the word out about protests, crackdowns, corruption and other hot-button issues via the Internet. Extensive coverage of Dieu Cay's trial, the recent Catholic property protests in Hanoi and renewed anti-China fervor over the Spratleys and Paracels was all widely available on Vietnam's blog scene.

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